



Labor Committee

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LRB096 00918 RLC 22521 a

1 AMENDMENT TO HOUSE BILL 163

2 AMENDMENT NO. _____. Amend House Bill 163 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Prevailing Wage Act is amended by changing
5 Section 4 as follows:

6 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

7 Sec. 4. Ascertaining prevailing wage.

8 (a) The public body awarding any contract for public work
9 or otherwise undertaking any public works, shall ascertain the
10 general prevailing rate of hourly wages in the locality in
11 which the work is to be performed, for each craft or type of
12 worker or mechanic needed to execute the contract, and where
13 the public body performs the work without letting a contract
14 therefor, shall ascertain the prevailing rate of wages on a per
15 hour basis in the locality, and such public body shall specify
16 in the resolution or ordinance and in the call for bids for the

1 contract, that the general prevailing rate of wages in the
2 locality for each craft or type of worker or mechanic needed to
3 execute the contract or perform such work, also the general
4 prevailing rate for legal holiday and overtime work, as
5 ascertained by the public body or by the Department of Labor
6 shall be paid for each craft or type of worker needed to
7 execute the contract or to perform such work, and it shall be
8 mandatory upon the contractor to whom the contract is awarded
9 and upon any subcontractor under him, and where the public body
10 performs the work, upon the public body, to pay not less than
11 the specified rates to all laborers, workers and mechanics
12 employed by them in the execution of the contract or such work;
13 provided, however, that if the public body desires that the
14 Department of Labor ascertain the prevailing rate of wages, it
15 shall notify the Department of Labor to ascertain the general
16 prevailing rate of hourly wages for work under contract, or for
17 work performed by a public body without letting a contract as
18 required in the locality in which the work is to be performed,
19 for each craft or type of worker or mechanic needed to execute
20 the contract or project or work to be performed. Upon such
21 notification the Department of Labor shall ascertain such
22 general prevailing rate of wages, and certify the prevailing
23 wage to such public body.

24 (a-1) The public body or other entity awarding the contract
25 shall cause to be inserted in the project specifications and
26 the contract a stipulation to the effect that not less than the

1 prevailing rate of wages as found by the public body or
2 Department of Labor or determined by the court on review shall
3 be paid to all laborers, workers and mechanics performing work
4 under the contract.

5 (a-2) When a public body or other entity covered by this
6 Act has awarded work to a contractor without a public bid,
7 contract or project specification, such public body or other
8 entity shall comply with subsection (a-1) by providing the
9 contractor with written notice on the purchase order related to
10 the work to be done or on a separate document indicating that
11 not less than the prevailing rate of wages as found by the
12 public body or Department of Labor or determined by the court
13 on review shall be paid to all laborers, workers, and mechanics
14 performing work on the project.

15 (a-3) Where a complaint is made and the Department of Labor
16 determines that a violation occurred, the Department of Labor
17 shall determine if proper written notice under this Section 4
18 was given. If proper written notice was not provided to the
19 contractor by the public body or other entity, the Department
20 of Labor shall order the public body or other entity to pay any
21 interest, penalties or fines that would have been owed by the
22 contractor if proper written notice were provided. The failure
23 by a public body or other entity to provide written notice does
24 not relieve the contractor of the duty to comply with the
25 prevailing wage rate, nor of the obligation to pay any back
26 wages, as determined under this Act. For the purposes of this

1 subsection, back wages shall be limited to the difference
2 between the actual amount paid and the prevailing rate of wages
3 required to be paid for the project. The failure of a public
4 body or other entity to provide written notice under this
5 Section 4 does not diminish the right of a laborer, worker, or
6 mechanic to the prevailing rate of wages as determined under
7 this Act.

8 (b) It shall also be mandatory upon the contractor to whom
9 the contract is awarded to insert into each subcontract and
10 into the project specifications for each subcontract a written
11 stipulation to the effect that not less than the prevailing
12 rate of wages shall be paid to all laborers, workers, and
13 mechanics performing work under the contract. It shall also be
14 mandatory upon each subcontractor to cause to be inserted into
15 each lower tiered subcontract and into the project
16 specifications for each lower tiered subcontract a stipulation
17 to the effect that not less than the prevailing rate of wages
18 shall be paid to all laborers, workers, and mechanics
19 performing work under the contract. A contractor or
20 subcontractor who fails to comply with this subsection (b) is
21 in violation of this Act.

22 (b-1) When a contractor has awarded work to a subcontractor
23 without a contract or contract specification, the contractor
24 shall comply with subsection (b) by providing a subcontractor
25 with a written statement indicating that not less than the
26 prevailing rate of wages shall be paid to all laborers,

1 workers, and mechanics performing work on the project. A
2 contractor or subcontractor who fails to comply with this
3 subsection (b-1) is in violation of this Act.

4 (b-2) Where a complaint is made and the Department of Labor
5 determines that a violation has occurred, the Department of
6 Labor shall determine if proper written notice under this
7 Section 4 was given. If proper written notice was not provided
8 to the subcontractor by the contractor, the Department of Labor
9 shall order the contractor to pay any interest, penalties, or
10 finances that would have been owed by the subcontractor if proper
11 written notice were provided. The failure by a contractor to
12 provide written notice to a subcontractor does not relieve the
13 subcontractor of the duty to comply with the prevailing wage
14 rate, nor of the obligation to pay any back wages, as
15 determined under this Act. For the purposes of this subsection,
16 back wages shall be limited to the difference between the
17 actual amount paid and the prevailing rate of wages required
18 for the project. However, if proper written notice was not
19 provided to the contractor by the public body or other entity
20 under this Section 4, the Department of Labor shall order the
21 public body or other entity to pay any interest, penalties, or
22 finances that would have been owed by the subcontractor if proper
23 written notice were provided. The failure by a public body or
24 other entity to provide written notice does not relieve the
25 subcontractor of the duty to comply with the prevailing wage
26 rate, nor of the obligation to pay any back wages, as

1 determined under this Act. For the purposes of this subsection,
2 back wages shall be limited to the difference between the
3 actual amount paid and the prevailing rate of wages required
4 for the project. The failure to provide written notice by a
5 public body, other entity, or contractor does not diminish the
6 right of a laborer, worker, or mechanic to the prevailing rate
7 of wages as determined under this Act.

8 (c) A public body or other entity ~~It~~ shall also require in
9 all contractor's and subcontractor's ~~such contractor's~~ bonds
10 that the contractor or subcontractor include such provision as
11 will guarantee the faithful performance of such prevailing wage
12 clause as provided by contract or other written instrument. All
13 bid specifications shall list the specified rates to all
14 laborers, workers and mechanics in the locality for each craft
15 or type of worker or mechanic needed to execute the contract.

16 (d) If the Department of Labor revises the prevailing rate
17 of hourly wages to be paid by the public body, the revised rate
18 shall apply to such contract, and the public body shall be
19 responsible to notify the contractor and each subcontractor, of
20 the revised rate.

21 (e) Two or more investigatory hearings under this Section
22 on the issue of establishing a new prevailing wage
23 classification for a particular craft or type of worker shall
24 be consolidated in a single hearing before the Department. Such
25 consolidation shall occur whether each separate investigatory
26 hearing is conducted by a public body or the Department. The

1 party requesting a consolidated investigatory hearing shall
2 have the burden of establishing that there is no existing
3 prevailing wage classification for the particular craft or type
4 of worker in any of the localities under consideration.

5 (f) It shall be mandatory upon the contractor or
6 construction manager to whom a contract for public works is
7 awarded to post, at a location on the project site of the
8 public works that is easily accessible to the workers engaged
9 on the project, the prevailing wage rates for each craft or
10 type of worker or mechanic needed to execute the contract or
11 project or work to be performed. In lieu of posting on the
12 project site of the public works, a contractor which has a
13 business location where laborers, workers, and mechanics
14 regularly visit may: (1) post in a conspicuous location at that
15 business the current prevailing wage rates for each county in
16 which the contractor is performing work; or (2) provide such
17 laborer, worker, or mechanic engaged on the public works
18 project a written notice indicating the prevailing wage rates
19 for the public works project. A failure to post or provide a
20 prevailing wage rate as required by this Section is a violation
21 of this Act.

22 (Source: P.A. 95-331, eff. 8-21-07.)".